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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,528	07/02/2002	Ekkerhard Pott	EU206387521US	7313
21003	7590	10/03/2003	EXAMINER	
BAKER & BOTTS			SOLIS, ERICK R	
30 ROCKEFELLER PLAZA			ART UNIT	
NEW YORK, NY 10112			PAPER NUMBER	

3747

DATE MAILED: 10/03/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/089,528

Applicant(s)

POTT ET AL.

Examiner

Erick R Solis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 12-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 July 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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4. Claims 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takaku et al (US Pat. No. 6330510) in view of applicant's admitted prior art at pg.3, paragraph 9 of the specification. This reference teaches a direct injection Otto engine having a stratified lean mode (layered lean) wherein NOx emissions are reduced by using a NOx storage catalyst. The engine also includes a external EGR system (not shown). Furthermore a control valve (7) which may be used to generate a tumbling flow is taught. This reference, however, does not teach the use of internal EGR. Applicant teaches at paragraph 9 of the specification, that similar engines are known which simultaneously use internal and external EGR. It would have been obvious to one of ordinary skill in the art to have included internal EGR in Takaku et al 's engine because this would have provided for more accurate distribution of EGR to all the cylinders and reduced delay times. Furthermore, the use of an EGR cooler is considered to be an obvious matter of design choice as they are well know in the art and would have aided in further lowering NOx emissions by reducing combustion temperatures. The use of an NOx sensor is also well known and would have aided in further refining control of the NOx emissions.

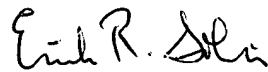
5. Claims 12-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura et al (US Pat. No. 6257197) in view of applicant's admitted prior art at pg.3, paragraph 9 of the specification. This reference teaches a direct injection Otto engine having a stratified lean mode (layered lean) wherein NOx emissions are reduced by using a NOx storage catalyst. The engine also includes an external EGR system (38).

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Furthermore a control valve (30) which may be used to generate a tumbling flow is taught. This reference, however, does not teach the use of internal EGR. Applicant teaches at paragraph 9 of the specification, that similar engines are known which simultaneously use internal and external EGR. It would have been obvious to one of ordinary skill in the art to have included internal EGR in Nishimura et al 's engine because this would have provided for more accurate distribution of EGR to all the cylinders and reduced delay times. Furthermore, the use of an EGR cooler is considered to be an obvious matter of design choice as they are well know in the art and would have aided in further lowering NOx emissions by reducing combustion temperatures. The use of an NOx sensor is also well known and would have aided in further refining control of the NOx emissions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erick R. Solis whose telephone number is (703) 308-2651. The examiner can normally be reached on Monday-Thursday.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.


Erick R. Solis
Primary Examiner
Art Unit 3747

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September 27, 2003